

79 Apr. 23

# STATE REGISTER



## STATE OF MINNESOTA

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**PROPOSED RULES**

**STATE CONTRACTS**

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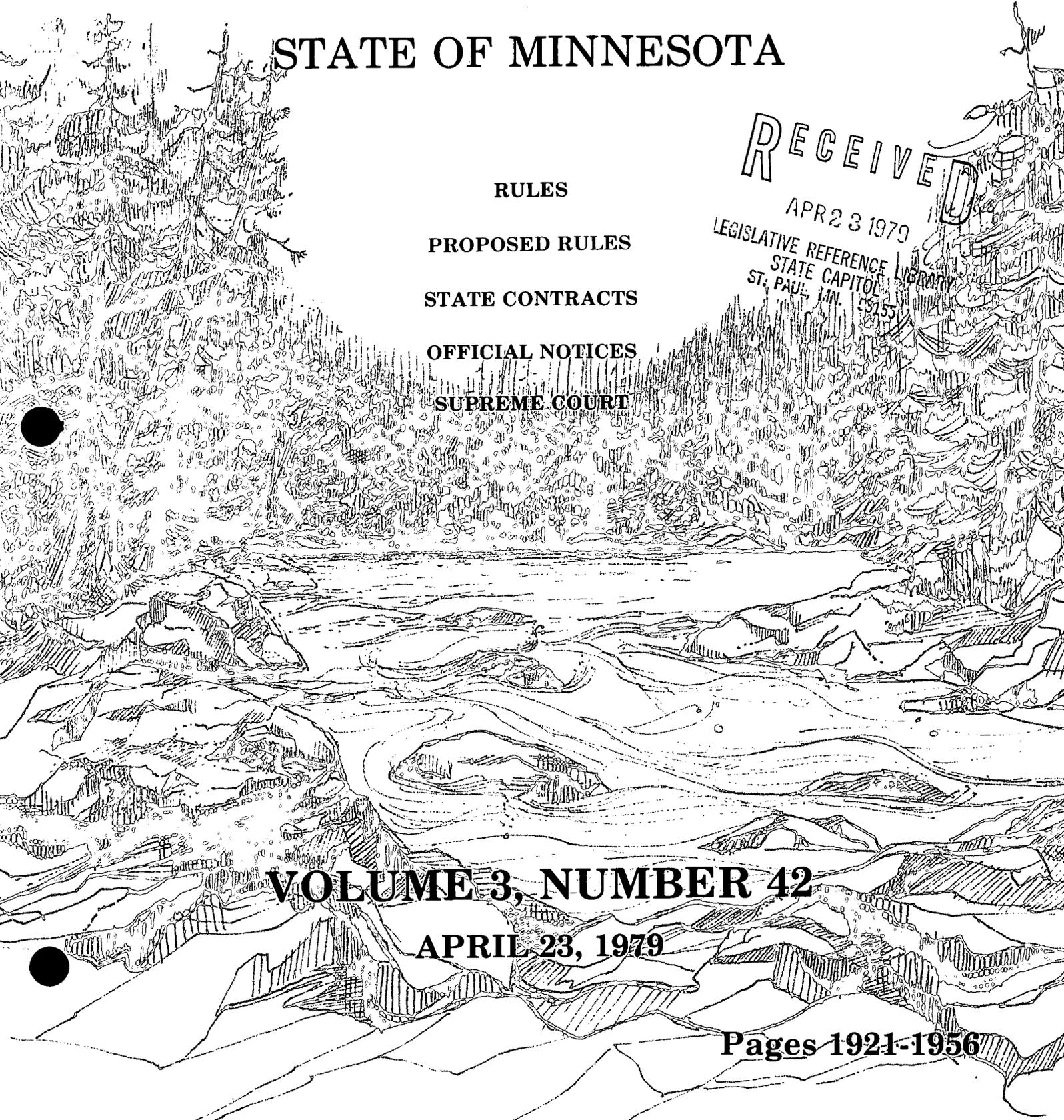
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### VOLUME 3, NUMBER 42

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# STATE REGISTER

## Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices.	Issue Date
SCHEDULE FOR VOLUME 3			
43	Monday Apr 16	Monday Apr 23	Monday Apr 30
44	Monday Apr 23	Monday Apr 30	Monday May 7
45	Monday Apr 30	Monday May 7	Monday May 14
46	Monday May 7	Monday May 14	Monday May 21

\*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

\*\*Notices of Public Hearings on proposed rules are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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# MCAR AMENDMENTS AND ADDITIONS

The following is a listing of all proposed and adopted rules published in Volume 3, Numbers 40-42 of the *State Register*. The listing is arranged in the same order as the table of contents of the *Minnesota Code of Agency Rules* (MCAR). All adopted rules published in the *State Register* and listed below amend the rules contained in the MCAR set. Both proposed temporary and adopted temporary rules are listed here al-

though they are not printed in the MCAR due to the short term nature of their legal effectiveness. During the term of their legal effectiveness, however, adopted temporary rules do amend the MCAR. A cumulative listing of all proposed and adopted rules in Volume 3 of the *State Register* is published each quarter and at the end of the volume year.

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- 11 MCAR §§ 1.0188-1.0196 (proposed) ..... 1901

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Minnesota artist F. Lee Jacques drew "Boat-Tailed Grackles Gargling Exuberantly" for the book *The Geese Fly High* written by his wife, Florence Page Jacques. (Courtesy of the John Ford Bell Museum of Natural History)

# RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption as proposed and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which

has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

## Department of Labor and Industry Occupational Safety and Health Division Emergency Temporary Standard Limiting Employee Exposure to Lead

Please take notice that Harry D. Peterson, Commissioner, Minnesota Department of Labor and Industry, has determined that employees in Minnesota are exposed to grave danger from exposure to lead. In accordance with Minn. Stat. § 182.655, subd. 11 (1978), the Commissioner has determined that an Emergency Temporary Standard (ETS) must be adopted to protect workers from this grave danger. This action follows similar U.S. Department of Labor, Occupational Safety and Health Administration (federal OSHA), action and will result in the adoption of a standard identical to the standard presently enforced by federal OSHA.

In 1971, federal OSHA adopted a standard for lead and its inorganic compounds as part of Table Z-2 of 29 CFR 1910.1000. The permissible exposure limit was set at 200  $\mu\text{g}/\text{m}^3$  as determined on the basis of an eight-hour time-weighted average. In January 1973, the Director of the National Institute for Occupational Safety and Health (NIOSH) submitted to the Secretary of Labor a criteria document for inorganic lead which recommended lowering the exposure limit to 150  $\mu\text{g}/\text{m}^3$ . On August 4, 1975, the Director of NIOSH recommended that the permissible exposure limit be further reduced. Thereafter, on October 3, 1975, federal OSHA proposed a new Occupational Safety and Health Standard which included a permissible exposure limit of 100  $\mu\text{g}/\text{m}^3$  together with provisions for medical monitoring, employee training, and other protective measures. On January 4, 1977, OSHA announced the applicability of technological feasibility

and on February 15, 1977 furnished a final economic impact statement. Public hearings were held during March, April and May 1977. The hearing record was reopened by federal OSHA on September 16, 1977 and additional evidence on the issue of medical removal protection was taken at hearings held in November and December 1977. A final standard for occupational exposure to lead was published in the Federal Register on Tuesday, November 14, 1978 with an effective date of February 1, 1979, with delayed start-up dates for some provisions. Certain corrections to the standard were published in the *Federal Register* on January 26, 1979.

Numerous petitions were filed in several U.S. Courts of Appeal challenging the validity of the permanent standard described above. On January 26, 1979, OSHA administratively stayed the lead standard until February 24, 1979. A decision on a motion to stay the lead standard was issued by the U.S. Circuit Court of Appeals for the District of Columbia on March 1, 1979. The Court's order stayed certain provisions of the standard and denied the stay motion on others.

In summary, the purpose of the stay, according to the Court's order, is ". . . to defer the requirement that employers undertake the expense of environmental controls, revision of work practices and construction of facilities . . ." while other portions of the standard ". . . which will provide protection to employees during the pendency of judicial review . . ." go into effect. Portions of the standard that were stayed by the Court include those that require engineering and work practice controls, written compliance programs, ventilation, administrative controls, hygiene facilities and practices, medical surveillance requirements including zinc protoporphyrin, multiple physician review and signs. Portions of the standard that were left intact include an exposure limit of 50  $\mu\text{g}/\text{m}^3$  (respiratory protection is allowed between 50 and 200  $\mu\text{g}/\text{m}^3$ ), exposure monitoring, respiratory protection, some medical surveillance requirements, protective clothing and equipment, housekeeping, and medical removal protection.

Action here by the Minnesota Department of Labor and Industry adopts a standard that is identical to the partially

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## RULES

stayed standard presently being enforced by federal OSHA. Action to adopt this standard as a permanent standard will be taken within six months as required by Minn. Stat. § 182.655, subd. 11.

The Occupational Safety and Health Standard controlling occupational exposure to lead is as follows:

The Minnesota Occupational Safety and Health Codes and Rules are hereby changed and amended by including and adopting by reference the following change to Title 29 of the Code of Federal Regulations:

Part 1910, Occupational Safety and Health Standards—Occupational Exposure to Lead as published in Volume 43, No. 220 of the *Federal Register* on Tuesday, November 14, 1978, Pages 53007-53014;

Corrections as published in Volume 44, No. 19, of the *Federal Register* on Friday, January 26, 1979, Pages 5446-5448. This standard is modified by deleting those provisions of 29 CFR Section 1910.1025 which were stayed by the U.S. Court of Appeals for the District of Columbia on March 1, 1979. Notice of the Partial Judicial Stay is published in Volume 44, No. 50 of the *Federal Register*, Tuesday, March 13, 1979, Page 14555.

This standard, issued as an Emergency Temporary Standard, will take effect on April 23, 1979, its date of publication, and will be superseded by a permanent standard within six months. It applies to all employments covered by the Minnesota Occupational Safety and Health Act of 1973, Minn. Stat. § 182.65 *et seq.* except construction and agriculture.

A complete copy of the specific standard described above is available by writing to the Deputy Commissioner, Minnesota Department of Labor and Industry, 500 Space Center Building, 444 Lafayette Road, St. Paul, Minnesota 55101.

Harry D. Peterson  
Commissioner

## Livestock Sanitary Board

### Adopted Rules Governing the Importation of Goats and Swine, Control of Brucellosis and Tuberculosis in Goats, Eradication of Swine Brucellosis and Control of Mycoplasma in Poultry

The rules and amendments published at *State Register*, Volume 3, Number 8, pp. 313-318, August 28, 1978 (3

S.R. 313-318) are now adopted as proposed, with the following amendments:

### Amendments as Adopted

#### 3 MCAR § 2.022 Control of goat brucellosis ~~in Minnesota~~

A.1. Test and Testing means and refers to the Brucella Buffered Antigen (BBA or Card) test or other tests approved by the Board on serums from blood samples collected and submitted by a veterinarian.

B.2.c. Goats tested shall be individually identified by ear tag, or tattoo ~~or registration number~~.

#### 3 MCAR § 2.023 Control of goat tuberculosis.

A.1. Test and Testing means the intradermic injection of tuberculin in the caudal fold by an accredited veterinarian or a veterinarian of the U.S.D.A. and the injection site observed and palpated 72 hours after injection. On all goats which respond to the caudal fold injection, a comparative cervical test will be made within ten days or after 60 days following date of caudal fold injection by a veterinarian of the Board or U.S.D.A.

B.2.c. Goats shall be individually identified by ear tag, or tattoo ~~or registration number~~.

B.3.d. The Board may authorize the movement of goats from a quarantined herd to a public stockyard or to a rendering plant.

The rules and amendments published at *State Register*, Volume 3, Number 18, pp. 970-980 November 6, 1978 (3 S.R. 970-980) are now adopted as proposed, with the following amendments:

### Amendments as Adopted

#### 3 MCAR § 2.005 Importation of swine ~~into Minnesota~~.

#### 3 MCAR § 2.021 Eradication of swine brucellosis.

A.5. Test and Testing means and refers to the Brucella Buffered Antigen (BBA or Card) test or other tests approved by the Board conducted in a laboratory approved by the Board on serums from blood samples collected and submitted by a veterinarian.

#### 3 MCAR § 2.032 ~~(LSB-32)~~ Control of mycoplasma in poultry.

# PROPOSED RULES

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new rule or amendment. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

## Calendar

### Public Hearings on Proposed Agency Rules

April 30-May 4, 1979

Date	Agency and Rule Matter	Time and Place
May 2	Department of Natural Resources Snowmobile Emission Standards Hearing Examiner: Myron Greenberg	10:00 a.m., Weyerhaeuser Rm., Minnesota Historical Society, 690 Cedar St., St. Paul, MN

## Energy Agency

### Proposed Rules Governing the Permissible Hours of Operation, the Quantity and the Efficiency of Outdoor Display Lighting

#### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in Room D of the Veterans Service Building, 20 West 12th Street and Columbus Avenue between Wabasha and Iglehart, St. Paul, Minnesota on May 24, 1979, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written material may be submitted by mail to Hearing Examiner Myron Greenberg, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8109 either before the hearing, or within five working days after the close of the hearing unless the hearing examiner orders a longer period not to exceed 20 calendar days.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the Agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the Agency (in the case of the Agency's submission or resubmission to the Attorney General).

The proposed rules, if adopted, would define outdoor display lighting to include any outdoor building facade lighting, any outdoor decorative lighting, any illuminated off-premise advertising, and any on-premise outdoor lighting including security lighting. Having defined outdoor display lighting, the proposed rules would specify permissible hours of operation of outdoor lighting. Further, the proposed rules would establish a minimum efficiency standard for outdoor display lighting, allowing a few specific exceptions. Last, the proposed rules would establish maximum quantities of outdoor display lighting, providing a specific exception for certain security lighting. The rules have a variety of effective dates.

Copies of the proposed rules are now available and one free copy may be obtained by writing to, or calling, the Minnesota Energy Agency, attention Richard A. Wallen, 980 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101, telephone (612) 296-7457. Copies will also be available at the door on the date of the hearing.

Certain of the minimum standards that would be imposed by the rules on permissible quantity of outdoor display lighting are incorporated by specific reference to the "IES Lighting Handbook" published by the Illuminating Engineering Society. The materials to be incorporated by reference are available for viewing at the Minnesota Energy Agency Library. The Agency Library can respond to inquiries about other places for convenient viewing and copying the referenced material, or for acquiring them.

Notice: The proposed rules are subject to change as a result

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## PROPOSED RULES

of the rules hearing process and public input before or at the hearing. The Agency therefore strongly urges those who may be affected in any manner by the substance of the proposed rules to participate in the rules hearing process directly or by representative.

The Agency's authority to promulgate the proposed rules is contained in Minn. Stat. §§ 116H.08(a), 116H.12, subd. 1b (1978).

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the Agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the Agency at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after he/she becomes a lobbyist. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than \$250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

April 9, 1979

Algernon H. Johnson  
Director

### Rules as Proposed

**6 MCAR § 2.2101 Purpose of rules.** The purpose of these rules is to define outdoor display lighting, to specify permissible hours of operation of outdoor display lighting, and to establish quantity and efficiency standards for outdoor display lighting pursuant to Minn. Stat. § 116H.12, subd. 1b.

#### 6 MCAR § 2.2102 Applicability of rules.

A. Beginning July 1, 1980, no person shall operate outdoor display lighting during hours other than those specified by these rules.

B. Beginning July 1, 1981, no person shall install outdoor display lighting in a quantity that exceeds, or at an efficiency less than, that provided by these rules.

C. Beginning July 1, 1985, no person shall operate outdoor

display lighting which does not comply with rules 6 MCAR § 2.2115 (efficiency) and 6 MCAR § 2.2120 B. (quantity).

#### D. Exceptions.

1. These rules shall not apply to temporary or seasonal outdoor display lighting;

2. These rules shall not apply to outdoor display lighting which provides information as to the time of day, temperature, weather conditions, or other matters concerning the public health, safety and welfare;

3. These rules shall not apply to penal institutions;

4. These rules shall not apply to airplane obstruction lighting as defined by the Federal Aviation Administration nor to any other lighting that is required by federal, state, or local governmental law or regulation.

**6 MCAR § 2.2104 Definitions.** For purposes of these rules, the following definitions shall apply:

A. "Business day" means that portion of a 24-hour period when an establishment is open for business;

B. "Ballast" means a device used with an electric discharge lamp to obtain the necessary circuit conditions for starting and operating;

C. "Daytime hours" means the time between one half hour after sunrise and one half hour before sunset, or when the ambient light level is greater than two foot candles;

D. "Establishment" means a place of business or a public or private institution;

E. "Foot candle" means a standard measure of light intensity;

F. "Luminous sign tubing" means lights commonly known as neon lights;

G. "Lumens per watt" means a standard unit of measure of light efficiency;

H. "Outdoor display lighting" means any outdoor building facade lighting, any outdoor decorative lighting, any illuminated off-premise advertising, and any on-premise outdoor lighting including security lighting;

I. "Security lighting" means a type of outdoor display lighting located on, or around the exterior or perimeter of, a building, structure, fence, lot, or other outdoor area, the purpose of which is to protect persons or property against the threat or occurrence of harm;

## PROPOSED RULES

J. "Standardized Outdoor Display Signs" means off-premise outdoor display advertising commonly known as billboards;

K. "Temporary or seasonal display lighting" means display lighting that, on at least 300 consecutive days in any 12-month period, is not illuminated.

### 6 MCAR § 2.2110 Permissible hours of outdoor display lighting operation.

A. Standardized outdoor display signs may not be artificially illuminated during daytime hours.

B. Standardized outdoor display signs may not be artificially illuminated during the period between midnight and 6:00 a.m. or one half hour after sunrise, whichever is earlier, except for the hours during that period when the establishment(s) being advertised is (are) open for business.

C. Outdoor display lighting that is used to illuminate a historic landmark as defined in Minn. Stat. ch. 138 or § 4.077 may be operated between one half hour before sunset and 10 p.m.

D. All other outdoor display lighting except security lighting may be operated from one half hour before sunset until one hour after the close of a business day and from the beginning of a business day until one half hour after sunrise.

E. Security lighting may not be operated during daytime hours.

### 6 MCAR § 2.2115 Permissible efficiency.

A. No person shall install or use outdoor display lighting in which the light source produces light at an initial efficiency, including ballast, of less than 40 lumens per watt.

B. Exceptions.

1. Rule 6 MCAR § 2.2115 A. shall not apply to luminous sign tubing.

2. Rule 6 MCAR § 2115 A. shall not apply to any establishment whose total outdoor display lighting system has a demand of 1500 watts or less.

### 6 MCAR § 2.2120 Permissible quantity.

A. Beginning July 1, 1980, the provisions of Rule 6 MCAR § 2102 B. and C. notwithstanding, no person shall

operate security lighting that exceeds .05 watts per square foot or .2 foot-candles for the area lighted for security purposes.

B. No person shall operate any other outdoor display lighting that exceeds the recommended minimum standards set forth in the "IES Lighting Handbook" published by the Illuminating Engineering Society by more than 20 percent.

C. Rule 6 MCAR § 2.2120 A. shall not apply to an establishment whose total security lighting system has a demand of 1500 watts or less.

## Ethical Practices Board

### Proposed Rules Governing Economic Interest Disclosure

#### Notice of Hearing

Notice is hereby given that a public hearing pursuant to Minn. Stat. § 15.0412 (1978) and Minn. Laws 10A in the above entitled matter will be held in Room 22, State Office Building, St. Paul, MN 55155, on Thursday, May 24, 1979, beginning at 9:30 a.m., and continuing until all persons have had an opportunity to be heard.

Statutory authority to promulgate the proposed rules is vested in the Ethical Practices Board by Minn. Stat. § 10A.02, subd. 13 (1978).

The Ethical Practices Board proposes to amend permanent rules EPB 100 and temporary rules 9 MCAR §§ 1.0100-1.0111 concerning economic interest disclosure by candidates and public officials, as well as to include clarifications from advisory opinions. In 1978, an amendment to Chapter 10A.02, subd. 12 limited the effectiveness of advisory opinions.

Chapter 463, Section 108 of Minnesota Session Laws (1978) granted authority to the Board to issue temporary rules until permanent rules are adopted pursuant to Minn. Stat. ch. 15 or until October 1, 1979, whichever occurs first.

Free copies of the proposed rules are available and can be obtained from the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, or by calling 296-5148. Additional copies will be available at the hearing. Temporary rules in effect at present may also be obtained.

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## PROPOSED RULES

A Statement of Need explaining why the Board feels the proposed rules are necessary and a Statement of Evidence outlining the testimony they will introduce will be filed with the Hearing Examiner at least 25 days prior to the hearing and will be available for public inspection.

All interested or affected persons will have an opportunity to participate. Statements made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Hearing Examiner Peter C. Erickson, Room 300, 1745 University Avenue, St. Paul, MN 55104, either before the hearing, or within (5) five working days following the close of the hearing, or up to 20 days if ordered by the Hearing Examiner.

Please be advised that pursuant to Minn. Stat. § 10A.01, subd. 11 (1978) any individual: (a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) Who spends more than \$250, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials must register with the State Ethical Practices Board as a lobbyist within five days of the commencement of such activity by the individual. The statute provides certain exceptions. Questions should be directed to the State Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report) or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule/rules. Copies of the Statement of Need and Reasonableness may

be obtained from the Office of Hearing Examiners at a minimal charge.

April 5, 1979

Vernon Jensen  
Vice Chairperson

### Rules as Proposed

The following permanent rule (EPB 100) concerning economic interest disclosure is struck in its entirety.

Temporary rules are in effect at the present time and may be secured from the Ethical Practices Board.

#### ~~EPB 100 Statements of economic interest~~

(a) ~~Form for filing.~~ Every public official or candidate for elective office required to file a Statement of Economic Interest shall set forth the required information on a form prescribed by the Board.

(b) ~~Time for filing by candidates.~~ Every candidate for statewide or legislative office, excluding candidates for supreme court justice or district court judge, shall file a Statement of Economic Interest within 14 days after filing an affidavit of candidacy or petition to appear on the ballot, provided that August 7, 1974, shall be the earliest date upon which any Statement of Economic Interest must be filed.

(c) ~~Time for filing by public officials.~~

(1) ~~Each public official in office on April 13, 1974, or any individual who accepts employment as a public official between April 13, 1974, and June 8, 1974, inclusive, and who is still in office on August 7, 1974, shall file a Statement of Economic Interest with the Board on or before August 7, 1974. Each individual who accepts employment as a public official after June 8, 1974, shall file a Statement of Economic Interest within 60 days after accepting employment, and if the advice and consent of the senate is required, prior to submission of his name to the senate. No individual shall be required to file more than one Statement of Economic Interest in any year. An individual who holds more than one public office for which a Statement of Economic Interest is required, shall include a listing of all such offices held.~~

(2) ~~In 1975 and subsequent years, each public official who has previously filed a Statement of Economic Interest shall file a supplementary Statement of Economic Interest on or before April 15 of each year.~~

(3) ~~In 1975 and subsequent years, a public official who has filed a Statement of Economic Interest and who thereafter files as a candidate for statewide or legislative office shall file an amendment to the statement within 14 days after filing an affidavit of candidacy or submitting a petition to appear on the ballot.~~

## PROPOSED RULES

(d) Occupation and Principal Place of Business. For statement of occupation, the individual shall state his principal occupation, i.e. the occupation at which he spends most of his working hours or which provides his major source of compensation. "Principal place of business" means the name of the entity providing the individual's principal occupation.

(e) Business with which the Individual is Associated. Each individual who files a Statement of Economic Interest shall state the name of each business with which he is associated and the nature of that association. For purposes of these rules, an individual is associated with a business in the following cases: (i) when he receives compensation, other than for actual and reasonable expenses, in excess of \$50 in any month as a director, officer, owner, member, partner, employer or employee; or (ii) when he is a holder of securities worth \$2,500 or more at fair market value.

### (f) Compensation.

(1) "Compensation" includes every kind of compensation for labor or personal services of every kind from any private or public employment, office, position, or occupation.

(2) "Source of compensation" includes the name of the corporation, partnership or other entity from which the individual receives payment in compensation. An individual who is self-employed is required to list only the name of the proprietorship or description of the occupation in which the individual is self-employed (e.g. farming, practice of law as sole proprietor), and is not required to list the names of corporations, partnerships, or other entities making payments in compensation to the individual in his capacity as a self-employed individual.

(3) For purposes of an original Statement of Economic Interest, "compensation in any month" includes compensation received only in the calendar month immediately preceding the date of appointment as a public official or filing as a candidate. For purposes of this rule, the calendar month for reporting compensation is July, 1974, for any individual who holds public office as of April 13, 1974, or at any time thereafter through July 31, 1974, and who is still in office on the date of filing.

(4) For purposes of a supplementary Statement of Economic Interest to be filed on April 15, "compensation in any month" includes compensation received in any month between the end of the period covered in the preceding Statement of Economic Interest and March 31, inclusive.

(5) For purposes of calculating the amount of compensation received from any single source in a single month, such amount shall include the total amount received from such source during the month, whether or not the amount covers compensation for more than one month.

### (g) Securities.

(1) "Securities" includes any stock, share, bond, warrant, option, pledge, note, mortgage, debenture, lease, or commercial paper in any corporation, partnership, trust, or other association.

(2) A "holder of securities" or individual who "holds securities" is an individual having an ownership interest in any security as defined herein, or who is the trustee or beneficiary of any trust.

(3) For purposes of an original Statement of Economic Interest, "securities" includes only securities held on the date of appointment as a public official or filing as a candidate. For purposes of this rule, "date of appointment" means July 31, 1974, for any individual who holds public office as of April 13, 1974, or at any time thereafter through July 31, 1974, and who is still in office on the date of filing.

(4) For purposes of a supplementary Statement of Economic Interest to be filed on April 15, "securities" includes any security held at any time between the end of the period covered by the preceding Statement of Economic Interest and March 31, inclusive.

(5) For purposes of indicating the address of the entity in which stock is held, the registered office or principal place of business shall be stated, except that if stock is listed on one of the national exchanges and the address of the entity is not known, the name of the exchange shall suffice.

### (h) Real property.

(1) A separate listing shall be made to indicate each deed or document pursuant to which the individual's interest was acquired, except that only one listing is required if there are multiple deeds or documents covering the same real property.

(2) For purposes of determining the individual's amount of interest in the real property, the value of the property shall be the market value shown on the property tax statement.

**KEY: RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

## PROPOSED RULES

(3) For purposes of an original Statement of Economic Interest, the individual shall indicate the location of only those real properties held on the date of appointment as a public official or filing as a candidate, and in which his interest is in excess of \$2,500. For purposes of this rule, "date of appointment" means July 31, 1974, for any individual who holds public office as of April 13, 1974, or at any time thereafter through July 31, 1974, and who is still in office on the date of filing.

(4) For purposes of a supplementary Statement of Economic Interest, the individual shall indicate the location of any real property held at any time between the end of the period covered by the preceding Statement of Economic Interest and March 31, inclusive, in which his interest is in excess of \$2,500.

### Rules as Proposed (All new material)

#### Chapter Two: 9 MCAR §§ 1.0100-1.0111 Rules Relating to Economic Interest Disclosure

**9 MCAR § 1.0100 Acting public official.** An individual who is employed or appointed as an acting public official is required to file a Statement of Economic Interest.

**9 MCAR § 1.0101 Business with which the individual is associated.** A public official who holds a joint interest in a security, or in a partnership, shall disclose ownership in the security or the partnership if his or her proportionate share of the holding is valued at \$2,500 or more.

**9 MCAR § 1.0102 Compensation.** "Compensation" includes every kind of compensation for labor or personal services from private or public employment. It does not include alimony or child support payments.

#### **9 MCAR § 1.0103 Compensation in any month.**

A. For the purpose of an original Statement of Economic Interest, "compensation in any month" includes only compensation received in the calendar month immediately preceding the date of appointment as a public official or filing as a candidate.

B. For the purpose of supplementary Statements of Economic Interest to be filed, "compensation in any month" includes compensation and honorariums received in any month between the end of the period covered in the preceding Statement of Economic Interest and the end of the current period.

C. For the purpose of calculating the amount of compensation received from any single source in a single month, such amount shall include the total amount received from

such source during the month, whether or not the amount covers compensation for more than one month.

**9 MCAR § 1.0104 Date of appointment.** "Date of Appointment" means the effective date of the appointment to a position.

#### **9 MCAR § 1.0105 Late filing fees.**

A. The Board shall send a delinquency notice by certified mail to a public official or candidate within ten business days after a filing date. If a certified letter is returned by the post office to the Board as refused, then the letter shall be deemed to have been received by the addressee. The late filing fee will then commence accumulating on the eighth day after refusal. A certified letter returned to the Board as undelivered or refused shall be forwarded by first class mail to the public official or candidate and shall be deemed to have been received 7 days after the first class mailing.

B. A late filing fee will be charged through the business day preceding the day of filing of a late statement.

C. A late filing fee shall not be assessed for Saturday, Sunday or legal holidays.

D. The Board shall grant a waiver of a late filing fee if satisfied that the statement or report was not filed on time due to sickness, injury, or other compelling reason upon receipt of a written request for a waiver.

**9 MCAR § 1.0106 Honorarium.** "Honorarium" includes anything of value received for services for which there is no obligation to make payment; for example, a speech, an article, or similar service. Honorariums are not reported on original statements.

**9 MCAR § 1.0107 Occupation and principal place of business.** For statement of occupation, the individual shall state his or her principal occupation; i.e. the occupation at which he or she spends most of his or her working hours or which provides his or her major source of compensation. "Principal place of business" means the name of the entity providing the individual's principal occupation.

#### **9 MCAR § 1.0108 Real property.**

A. For the purpose of determining the value of an individual's interest in real property, the value of the property shall be the market value shown on the property tax statement.

B. For the purpose of an original Statement of Economic Interest, the individual shall disclose only those real properties owned on the date of appointment as a public official or filing as a candidate.

## PROPOSED RULES

C. For the purpose of a supplementary Statement of Economic Interest, the individual shall disclose any real property owned at any time between the end of the period covered by the preceding Statement of Economic Interest and through the last day of the month preceding the current filing or the last day of employment, if no longer a public official.

### 9 MCAR § 1.0109 Securities.

A. "Securities" includes any stock, share, bond, warrant, option, pledge, note, mortgage, debenture, lease, or commercial paper in any corporation, partnership, trust, or other association. "Securities" does not include deposits in a savings account or shares in a pension fund.

B. A "Holder of Securities" or an individual who "Holds Securities" is an individual having an ownership interest in any security as defined herein, or who is the trustee or beneficiary of a trust.

C. For the purpose of an original Statement of Economic Interest, "Securities" includes only securities held on the date of appointment as a public official or filing as a candidate.

D. For the purpose of a supplementary Statement of Economic Interest, "Securities" includes any security held at any time between the end of the period covered by the preceding Statement of Economic Interest and through the last day of the month preceding the current filing or the last day of employment, if no longer a public official.

E. For the purpose of indicating the address of the entity in which a security is held, the registered office or principal place of business shall be stated, except that if a security is listed on one of the national security exchanges, and the address of the entity is not known, the name of the exchange shall suffice.

**9 MCAR § 1.0110 Sources of compensation.** "Sources of Compensation" means the name of the corporation, partnership or other entity from which the individual receives compensation. A self-employed individual is required to list only a description of the occupation in which the individual is self-employed (e.g. farming, practice of law, etc.) and is not required to list the names of corporations, partnerships, or other entities which pay compensation to the public official or candidate in his or her capacity as a self-employed individual.

### 9 MCAR § 1.0111 Time for filing.

A. A Statement of Economic Interest is considered filed if delivered to the Ethical Practices Board by 4:30 p.m. of the prescribed filing date or postmarked by the filing date.

B. An individual shall not be required to file more than one Statement of Economic Interest in any year; except that a public official who has filed a Statement of Economic Interest within the calendar year as a public official, must file a supplementary statement within 14 days after filing an affidavit of candidacy or submitting a petition to appear on the ballot.

C. A public official or candidate, who previously filed a Statement of Economic Interest and who is required to file a new Statement of Economic Interest following a period when no statement was required, shall file an original statement.

D. An individual must file a Statement of Economic Interest for the period for which he served as a public official even though no longer a public official.

## Ethical Practices Board

### Proposed Rules Governing Campaign Financing

#### Notice of Hearing

Notice is hereby given that a public hearing pursuant to Minn. Stat. § 15.0412 (1978) and Minn. Laws 10A as amended in 1978 in the above entitled matter will be held in Room 22, State Office Building, St. Paul, MN 55155, on Thursday, May 24, 1979, beginning at 9:30 a.m., and continuing until all persons have had an opportunity to be heard.

Statutory authority to promulgate the proposed rules is vested in the Ethical Practices Board by Minn. Stat. § 10A.02, subd. 13.

The Ethical Practices Board proposes to amend permanent rules EPB 1-39 and supersede temporary rules 9 MCAR §§ 1.0001-1.0043 concerning campaign financing to reflect statutory changes in 1976, 1977, and 1978, as well as to include clarifications from advisory opinions. In 1978, an amendment to Chapter 10A.02, subd. 12 limited the effectiveness of advisory opinions. Chapter 463, Section

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## PROPOSED RULES

108 of Minnesota Sessions Laws (1978) granted authority to the Board to issue temporary rules until permanent rules are adopted pursuant to Minn. Stat. ch. 15 or until October 1, 1979, whichever occurs first.

Free copies of the proposed rules are available and can be obtained from the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, or by calling (612) 296-5148. Additional copies will be available at the hearing. Temporary rules in effect at present may also be obtained.

A Statement of Need explaining why the Board feels the proposed rules are necessary and a Statement of Evidence outlining the testimony they will introduce will be filed with the Hearing Examiner at least 25 days prior to the hearing and will be available for public inspection.

All interested or affected persons will have an opportunity to participate. Statements made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Hearing Examiner Peter C. Erickson, Room 300, 1745 University Avenue, St. Paul, MN 55104, either before the hearing, or within (5) five working days following the close of the hearing, or up to 20 days if ordered by the Hearing Examiner.

Please be advised that pursuant to Minn. Stat. § 10A.01, subd. 11 (1978) any individual: (a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) Who spends more than \$250, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials must register with the State Ethical Practices Board as a lobbyist within five days of the commencement of such activity by the individual. The statute provides certain exceptions. Questions should be directed to the State Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615.

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to the agency (in the case of the agency's submission or resubmission to the Attorney General.)

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule/rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

April 5, 1979

Vernon Jensen  
Vice Chairperson

### Rules as Proposed

The following permanent rules (EPB 1-39) concerning campaign financing are struck in their entirety.

Temporary rules currently in effect may be obtained from the Board.

#### ~~CHAPTER ONE. EPB 1-39, 100~~

~~EPB 1 Purpose of the rules.~~ It is the purpose of this chapter of these rules to give effect to the campaign financing provisions of the State Ethics Act of 1974, Minnesota Statutes 1974, and subsequent amendments, Chapter 10A. These rules are adopted pursuant to the powers of the State Ethical Practices Board conferred by the act. The six-member bipartisan Minnesota Ethical Practices Board is responsible for monitoring compliance with the act and these rules.

~~EPB 2 Applicability of the campaign financing provisions of the act.~~ The campaign financing provisions of the act apply to political committees, political funds, and individuals which receive contributions or make expenditures in excess of \$100 in any year for the purpose of influencing the nomination for election or election of a candidate for the office of Governor, Lieutenant Governor, Attorney General, State Treasurer, Secretary of State, State Auditor, State Senator, State Representative, Justice of the Supreme Court or Judge of District Court.

#### ~~EPB 3 Special provisions for 1974.~~

(a) All political committees or political funds in existence on April 14, 1974 or established on or before June 30, 1974 and which have raised or spent an amount in excess of \$100 shall file a Registration and Statement of Organization (EPB Form 1) with the Board on or before July 7, 1974. All political committees or political funds established after June 30, 1974 shall file a Registration and Statement of Organization (EPB FORM 1) at the time prescribed in Rule EPB 6.

## PROPOSED RULES

(b) No EPB report of Receipts and Expenditures (EPB Form 2) is required to be filed prior to July 7, 1974. The initial Report of Receipts and Expenditures to be filed on or before July 7, 1974 shall cover the period beginning and including April 13, 1974 through and including June 30, 1974. No report is required to show any contribution received or expenditure made prior to April 13, 1974.

(c) The limits on campaign expenditures in 1974 shall apply to expenditures beginning and including April 13, 1974 through and including December 31, 1974. The limits on campaign expenditures in 1974 are:\*

(1) For Governor and Lieutenant Governor, running jointly, \$600,000.

(2) For Attorney General, \$100,000.

(3) For Secretary of State, State Treasurer and State Auditor, \$50,000.

(4) For State Senator, \$15,000.

(5) For State Representative, \$7,500.

**EPB-4 Definitions.** For the purposes of the act and these rules, and the forms prescribed by the Board, the following definitions are applicable in addition to the definitions stated in the act:

(a) "Act" means Minnesota Statutes 1974, and subsequent amendments, ch. 10A, approved April 12, 1974, and effective April 13, 1974.

(b) "Address" means street and number, (Post Office box or rural route, if appropriate), room number, (if any), city, state, (if other than Minnesota) and zip code.

(c) "Board" means the Minnesota State Ethical Practices Board.

(d) "Calendar year" means: for 1974, the period from and including April 13, 1974 to and including December 31, 1974; for 1975 and subsequent years, the period from January 1 through December 31 inclusive.

(e) "Candidate" means an individual who seeks nomination for election or election to the office of Governor, Lieutenant Governor, Attorney General, Secre-

\*These limitations may be modified in certain circumstances specified in the act. See Minnesota Statutes 10A-25.

tary of State, State Treasurer, State Auditor, State Senator, State Representative, Justice of the Supreme Court or Judge of District Court. For the purposes of the act and these rules, candidates for Justice of the Supreme Court or Judge of District Court are deemed statewide candidates.

(f) "Cash" means money, balances on deposit in banks and other depositories, checks, negotiable instruments and other paper commonly accepted by a bank as a deposit.

(g) "Debt" means any amount owed for goods required or for services rendered.

(h) "Contribution" means a gift, subscription, loan, advance, the providing of supplies, materials or equipment, or deposit of money or anything else of value made to influence the nomination for election or election of a candidate and includes the transfer of funds between political committees or political funds made for that purpose. Contribution does not include services provided without compensation by individuals volunteering their time.

(i) "Earmark" "earmarked" and "earmarking" means the designation of a contribution (including a transfer of funds) for use by any individual, committee or fund other than the individual, committee or fund to whom the contribution is originally directed.

(j) "Expenditure" means a purchase, payment, distribution, loan (does not include loans from a national or state banking institution in the ordinary course of business), advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination for election or election of a candidate.

(k) "File", "Filed" and "Filing" mean delivery to the Board by midnight of the prescribed filing date or deposit as certified mail in an established U.S. Post Office, postage prepaid, no later than midnight two days before the filing date.

(l) "Occupation and principal place of business" means, if self-employed, type of work or profession and city where self-employed; or, if employed type of work or title, name of employer or employing organization, and city of employment.

(m) "Periodic Report" means the Report of Receipts and Expenditures required to be filed with the Board at the times prescribed in Rule EPB 6.

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# PROPOSED RULES

## ~~EPB 5 Obligation to register and report.~~

(a) Every political committee or political fund which receives contributions or makes expenditures in excess of \$100 in any year to influence the nomination for election or election of a candidate to statewide or legislative office must register with the Board and file the required periodic Reports of Receipts and Expenditures with the Board. The treasurer of the committee or fund is responsible for filing the registration statement (EPB Form 1) and periodic reports (EPB Form 2).

(b) Every person who makes expenditures in excess of \$100 in any year other than by contribution to a registered political committee or fund must register with the Board and file periodic reports.

## ~~EPB 6 Time for filing statements and reports.~~

(a) The Registration and Statement of Organization (EPB Form 1) must be filed with the Board no later than 14 days after the date upon which the principal campaign committee, political fund or political committee has received contributions or made expenditures in excess of \$100.

(b) Reports of Receipts and Expenditures (EPB Form 2) must be filed with the Board on the following dates until the committee or fund has terminated its activities; on or before January 31 of each year, and in each year in which the name of the candidate being supported is on the ballot, ten days before the primary election or special primary election and ten days before the general or special election.

## ~~EPB 7 Place of filing.~~

(a) Reports must be filed with the Board at the following address;

Minnesota State Ethical Practices Board  
Room 410  
State Office Building  
St. Paul, Minnesota 55155

(b) All reports or statements that must be filed with the Board by the principal campaign committee of legislative candidates shall be duplicated and filed by the Board with the county auditor of each county in which the legislative district lies within 72 hours of the date of the report or statements is required to be filed or, if the report or statement is delinquent, within 72 hours of the time the report or statement is actually filed.

~~EPB 8 Place to obtain forms.~~ All statements and reports to be filed with the Board shall be filed on forms prescribed by the Board. Such forms may be obtained without cost upon request from:

Minnesota State Ethical Practices Board  
Room 410  
State Office Building  
St. Paul, Minnesota 55155

## ~~EPB 9 Organization of political committees and political funds.~~

(a) Any group of two or more persons which raises or spends money to influence the nomination for election or election of a candidate for statewide or legislative office must establish a political committee or political fund. If the group has as its major purpose the influencing of elections, it shall establish a political committee. If the group is an association which has a major purpose other than the influencing of elections, such as a special interest group, it shall establish a political fund. When a person or a group merely solicits contributions which are made directly to a reporting committee or fund, such person or group is not required to establish an additional committee or fund.

(b) Every candidate shall designate a principal campaign committee. Such committee shall report on the Registration and Statement of Organization that it is the principal campaign committee of that candidate.

(c) Every committee and fund shall have a chairman and treasurer, who may be the same person. A candidate may be his own chairman and/or treasurer.

(d) No contribution shall be accepted and no expenditure shall be made by or on behalf of a committee or fund at a time when there is a vacancy in the office of treasurer.

(e) All monetary assets of a committee or fund shall be kept in a designated depository in an account designated by the name of the committee or fund.

(f) The funds of a political committee or the contents of a political fund shall not be commingled with any other funds or with the personal funds of any officer or member of the committee or fund.

~~EPB 10 Agreement to make loans.~~ An agreement to make a loan to a committee or fund shall be made in writing, signed by the lender (and endorsers, if any) and the recipient and reported on the appropriate schedule.

~~EPB 11 Allocation of joint expenditures.~~ The treasurer of a committee or fund making an expenditure for or on behalf of more than one candidate shall allocate the expenditure among such candidates on a reasonable proportionate basis and report the allocation on the Report of Receipts and Expenditures (EPB Form 2). He shall also send a written notification of the allocation to the treasurer of the principal campaign committee of the candidate(s) on whose behalf the expenditure was made. Such expenditures must be reported

# PROPOSED RULES

by the treasurer of the candidate's principal campaign committee as contributions in Kind and as campaign expenditures which are counted against the spending limits of the candidate.

~~EPB 12 Amendments.~~ Amendments correcting any report or statement must be filed with the Board within 10 days following the date of the event prompting the change in reported information or the date upon which the person filing became aware of the inaccuracy. The change or correction shall identify the form and paragraph containing the information to be changed or corrected.

~~EPB 13 Anonymous contributions.~~ Any single contribution in excess of \$20 for which no donor can be identified by the committee or fund shall be forwarded to the Board within 14 days after its receipt. When forwarding such anonymous contribution the treasurer of the committee or fund shall report to the Board the amount of the contribution and the date on which it was received.

~~EPB 14 Authorized expenditures.~~ All expenditures in excess of \$20 made with the expressed or implied consent of a candidate or his agent must be authorized by the treasurer of that candidate's principal campaign committee. For the purposes of making an authorized expenditure, a check signed by the treasurer or deputy treasurer of a candidate's principal campaign committee is sufficient for authorization. In the case of expenditures by an individual, committee or fund other than the principal campaign committee, authorization by the treasurer of the principal campaign committee of the candidate on whose behalf the expenditure is made should be in the following form:

Date	Amount of Expenditure
Name of individual/committee/fund making the expenditure	
Purpose of the expenditure	
Candidate on whose behalf expenditure is made	
I certify that the expenditure hereby authorized will not exceed the spending limit of the candidate on whose behalf the expenditure is made.	
Signature of treasurer or deputy treasurer of principal campaign committee.	

~~EPB 15 Cancelled debts and loans.~~ If the reporting committee or fund cancels any debt or loan owed to it, the amount of the debt or loan unpaid at the time of cancellation shall be deemed a non-campaign expenditure for that period and reported on the appropriate schedule.

~~EPB 16 Certification.~~ For purposes of certification on forms prescribed by the Board, the signature of the treasurer shall be sufficient, and notarization is not required.

~~EPB 17 Committees and funds not active.~~ A committee or fund which receives no contributions and makes no expenditures during a reporting period shall so certify in the space provided on the report form and shall hereby satisfy its reporting requirement for that reporting period.

~~EPB 18 Contracts for goods and services.~~ A contract for goods and/or services is an agreement to make payments on an expenditure over a specified period of time. All such contracts shall be made in writing, signed by the debtor and creditor, and reported on the appropriate schedule.

~~EPB 19 Contributed services.~~ The payment of compensation for the personal services of another person which are rendered to a candidate, committee or fund by any person other than that candidate, committee or fund are contributed services in Kind by the person's employer and should be reported and identified as "contributed services". The value of such contribution in Kind is the gross cost of such compensation.

~~EPB 20 Contribution in kind.~~ A contribution in Kind is a contribution of goods or services other than cash. The treasurer of the committee or fund shall report the fair market value of the goods or services contributed as a contribution on the appropriate schedule. Fair market value is the amount at which a willing seller, under no compulsion, and a willing buyer, under no compulsion, will trade. He shall identify the nature of the contribution and note that it is a contribution in Kind. The total value of all contributions in Kind of \$20 or more shall be reported on the contribution in Kind and expenditure schedules. In addition, each contribution in Kind with a value in excess of \$50 shall be disclosed as required on the appropriate schedules.

Contributions in Kind valued at less than \$20 need not be recorded or reported. The total amount of goods and services contributed in Kind shall be deemed to have been consumed in the reporting period in which received.

~~EPB 21 Reserved for future use~~

~~EPB 22 Debts outstanding.~~ For the purposes of the limits

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on expenditures imposed by the act; any debt owed by the reporting principal campaign committee for campaign expenditures still outstanding on December 31 shall be deemed a campaign expenditure for the reporting period ending December 31.

**EPB-23 Disclaimer for unauthorized expenditures.** Any person, committee or fund which solicits or accepts contributions or makes expenditures on behalf of any candidate without the written authorization of that candidate must disclose its lack of authorization on all oral and written communications. Such disclosure shall state in conspicuous type or clear oral announcement on each communication, as follows:

"The actions of \_\_\_\_\_ (name of person, committee or fund) are made on behalf of \_\_\_\_\_, but are made without his authorization or consent, express or implied, and he is not responsible for these activities."

**EPB-24 Disclosure requirements.** All contributions, in excess of \$50 for legislative candidates and in excess of \$100 for statewide candidates must be disclosed in accordance with the provisions of the act and these regulations. If any reporting committee or fund financially supports or opposes any candidate for the state legislature it must disclose all contributions received in excess of \$50. If the reporting committee or fund financially supports or opposes only statewide candidates, it must disclose contributions received in excess of \$100.

**EPB-25 Earmarked contributions.** Each person, committee or fund which receives or makes an earmarked contribution (including any transfer of funds) that is subject to the reporting requirements of the act shall report: (a) the name, address, (and if an individual, employer or, if self-employed, occupation) of the donor who originally made the earmarked contribution; (b) the name and address of the candidate, committee or fund for whom the contribution is earmarked; (c) the amount of such contribution earmarked for each such candidate, committee or fund; and (d) the aggregate amount earmarked for such candidate, committee or fund.

### **EPB-26 Exemptions from disclosure**

(a) Any individual or association may seek an exemption from the disclosure requirements of the act if disclosure would expose that individual or any members of that association to economic reprisals, loss of employment or threat of physical coercion.

(b) Any individual or association seeking such an exemption from the disclosure requirements shall submit a written application to the Board setting forth in detail the reasons justifying the claim for exemption. Such a claim must be filed no later than 30 days before the next applicable reporting date.

(c) If an individual decides to proceed anonymously in seeking an exemption, he shall designate a representative to present the claim on his behalf. The Board shall establish such procedures as may be necessary in the particular case to protect the anonymity of the individual seeking the exemption.

**EPB-27 Identification number.** Upon receipt of a Registration and Statement of Organization (EPB Form 1) the Board shall assign an identification number to the registering committee or fund; acknowledge receipt of the statement and notify the committee or fund of the number assigned. This identification number shall be entered by the committee or fund on all subsequent statements or reports as well as on all communications with the Board.

**EPB-28 Joint checks.** When a contribution is given on a joint check, it shall be deemed a contribution by the signator(s) of the check unless otherwise specified by the signator(s). When a contribution is given on a joint check and specified as a joint contribution it shall be deemed a contribution by each of the contributors in an amount proportional to the total number of contributors.

### **EPB-29 Limitations on contributions and expenditures.**

(a) No individual, committee or fund, except a political party or the principal campaign committee of a candidate, shall make a contribution to or expenditure on behalf of a candidate in an aggregate amount in excess of ten percent of the applicable spending limit for that candidate.

(b) No political party shall make a contribution to or expenditure on behalf of a candidate in an aggregate amount in excess of fifty percent of the applicable spending limit. For the purpose of this regulation, a political party includes a political party's organization within congressional districts, counties, legislative districts, municipalities, wards, precincts and any legislative body.

**EPB-30 Loans not repaid.** For the purposes of limits on contributions imposed by the act, any loans from other than a national or state banking institution made in the ordinary course of business to the reporting committee or fund not repaid by December 31, shall be deemed a contribution for the reporting period ending December 31.

**EPB-31 Non-campaign expenditures.** If an expenditure is not made for the purpose of purchasing goods or services used to influence the nomination for election or election of a candidate it shall be deemed to be a non-campaign expenditure and shall be reported on the appropriate schedule. The treasurer making the report shall provide upon request of the Board appropriate justification that the expenditure was not made for the purpose of purchasing goods or services used to influence the result of an election governed by this act.

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~~EPB 32 Petty cash.~~ Within any reporting period the treasurer of any reporting committee or fund may report as an expenditure for the purpose of "petty cash" an aggregate amount equal to \$100 per week if the committee or fund is supporting a candidate for statewide office or \$20 per week if the committee or fund is supporting a candidate for legislative office.

~~EPB 33 Receipted bills.~~ A copy of a cancelled check with an invoice stating the purpose of the expenditure shall be deemed a receipted bill. The treasurer shall keep all receipted bills and accounts for four years. A treasurer may transfer records and receipts to a new treasurer relieving that treasurer of record retention responsibility by written notification to the Board, which shall include date, name and address of new treasurer, and signed by both the old and new treasurer.

~~EPB 34 Recording contributions.~~ Every individual committee or fund that receives an individual contribution in excess of \$20 (including individual cash contributions received in mass collections) shall record the name and address of the contributor of each such amount. On demand of the treasurer and in any event within 14 days after receipt of such contribution the record of each such contribution together with the contribution shall be transmitted to the treasurer responsible for filing Reports of Receipts and Expenditures.

~~EPB 35 Recording expenditure.~~ The treasurer shall keep a record of every expenditure made by the committee or fund. He shall obtain a receipted bill, stating the particulars, for every expenditure on behalf of the committee or fund of over \$100 and for any expenditure in lesser amount if and when the aggregate amount of lesser expenditures to the same person during a year exceeds \$100.

~~EPB 36 Support of and opposition to a candidate.~~ For the purpose of this act, these rules, and the forms prescribed by the Board, influencing the nomination for election, or election of a candidate includes action in support of, or opposition to a candidate. The reporting requirements extend to support of or opposition to any candidate.

When a committee or fund is established primarily to support a candidate it shall designate the name of the candidate being supported on the Registration and Statement of Organization (EPB Form 1). When a committee or fund is established primarily to oppose a candidate it shall designate the name of the candidate opposed in lieu of any designation of the name of candidate supported.

~~EPB 37 Termination of committees and political funds.~~ After having filed a Registration and Statement of Organization with the Board, any committee or fund which determines that it will no longer receive contributions or make expenditures in support of any candidate for statewide or legislative office shall so notify the Board. Such notification shall consist of a Termination Report that covers the period from the closing date of the last previous report filed through the date of termination, together with a statement as to the disposition of residual funds, and both shall be signed. A committee may not terminate if it has outstanding debts. Any terminated committee which subsequently becomes subject to the registration and reporting requirements of the act is required to register.

### ~~EPB 38 Complaints of violations.~~

(a) Any person who believes a violation of the act or of these rules has occurred may file an oral or written complaint with the Board. When a written complaint is received from a registered voter, it shall be marked to show the date of receipt and acknowledged by letter within 5 days of receipt.

(b) There is no prescribed form for a written complaint, but all such complaints shall be typewritten or handwritten legibly in ink. The name and address of the person making the complaint shall be typewritten or hand printed on the complaint and it shall be signed by such person. A complaint shall name the alleged violator, describe in detail the alleged violation and shall be submitted together with any evidentiary material. Complaints will not be available for public inspection or copying.

(c) Upon receipt of a complaint, the Board shall cause to be investigated the alleged violation and take appropriate action. No investigation shall be required if a complaint is frivolous on its face, illegible, too indefinite, does not identify the violator or is unsigned.

(d) If upon investigation, the Board finds probable cause of criminal violation the matter shall be referred to the appropriate law enforcement authorities. The Board may commence action for injunctive relief in district court in appropriate cases.

(e) Any meeting or portion of a meeting during which the Board is hearing testimony or taking action concerning any complaint or investigation shall be closed to the public and the minutes of such meeting kept confidential until the Board makes a finding that there is or is not probable cause to conclude that a violation of the criminal provi-

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sion of the act or other campaign laws has occurred, or until the Board has determined that an action for injunctive relief should or should not be commenced, or until the Board has otherwise resolved the matter.

~~EPB 39 The EPB Forms referred to herein are not part of these rules and may be altered by the Board without rule changes.~~

### Rules as Proposed (All new material)

#### Chapter One: 9 MCAR §§ 1.0001-1.0043 Relating to Campaign Financing (Supersedes and repeals Rules EPB 1-39)

**9 MCAR § 1.0001 Applicability of rules.** These rules apply to principal campaign committees, political committees, political funds, individuals and associations that raise or expend in excess of \$100 in a calendar year to influence the nomination or election of a candidate.

#### 9 MCAR § 1.0002 Definitions.

A. "Act" means the Ethics in Government Act, Minn. Stat. ch. 10A. as amended by Laws of 1978, ch. 463 and 793.

B. "Business Day" means 8:00 a.m. to 4:30 p.m. Monday through Friday except for official state holidays.

C. "File", "filed", and "filing" means delivery to the office of the Board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date.

D. "Fundraising event" means any dinner, luncheon, rally, coffee party, cocktail party, or other similar gathering of three or more individuals where contributions are solicited or received to influence the nomination or election of a candidate.

E. "Money" means cash on hand, cash on deposit in banks and other depositories, checks, negotiable instruments and other paper commonly accepted by a bank as a deposit, and transfers through electronic funds transfers.

F. "Periodic Report" means the Report of Receipts and Expenditures required to be filed with the Board at prescribed filing dates.

G. "Unpaid bills" means advance of credit.

**9 MCAR § 1.0003 Agreement to make loans.** An agreement to make a loan to a political committee or fund shall be made in writing, signed by the borrower (and endorsers, if any) and reported on the appropriate schedule.

**9 MCAR § 1.0004 Allocation of approved expenditures.** Except for a political party expenditure as provided in Minn. Stat. § 10A.275, the treasurer of a political committee or political fund making an approved expenditure on behalf of more than one candidate shall allocate the expenditure among such candidates on a reasonable proportionate basis and report the allocation to each candidate on periodic reports.

**9 MCAR § 1.0005 Allocation of money from general account refused by a candidate.** Monies refused by a candidate from the general account of the State Election Campaign Fund shall be reapportioned to all the office accounts as provided by Minn. Stat. ch. 10A.31, subd. 5 (a)-(e) and distributed to all qualifying candidates.

**9 MCAR § 1.0006 Anonymous contributions.** Any single contribution in excess of \$20 for which no donor can be identified by the committee or fund shall be forwarded in its entirety to the Board within 14 days after its receipt. When forwarding such an anonymous contribution, the treasurer of the committee or fund shall report to the Board the amount of the contribution and the date on which it was received.

**9 MCAR § 1.0007 Approved expenditures and determination by the Board.** No approved expenditure in excess of \$20 on behalf of a candidate shall be made until the individual or association receives a written authorization from the treasurer or candidate of the principal campaign committee containing the following information: Date; Amount of expenditure; Name of individual/committee/fund making the expenditure; Purpose of the expenditure; Candidate on whose behalf expenditure is made; Office sought; Expenditure authorized by signature of treasurer or candidate of principal campaign committee.

**9 MCAR § 1.0008 Association newsletters on behalf of a candidate.** Unless the association is making an independent expenditure, the proportionate cost of preparation and distribution of a newsletter which advocates the nomination or election of a candidate is a donation in kind and must be approved by the candidate if the cost exceeds \$20 per candidate.

**9 MCAR § 1.0009 Campaign headquarters.** A reasonable proportion of the cost of a political party's headquarters which serves as the headquarters of a candidate must be allocated to the candidate and reported as a campaign expenditure by the principal campaign committee of the candidate.

**9 MCAR § 1.0010 Campaign literature.** Campaign literature paid for and distributed by a candidate or a principal campaign committee of a candidate running for office which contains pictures of, or incidental references to another candidate or officeholder will not be considered an approved

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and authorized expenditure on behalf of the other candidate provided the candidacy of the other candidate is not mentioned and no direct or indirect appeal for support of the other candidate is made, or if there is an independent expenditure disclaimer as defined in Minn. Stat. § 10A.17, subd. 4.

### 9 MCAR § 1.0011 Certification.

A. The signature of the treasurer or deputy treasurer of record shall be sufficient certification on forms prescribed by the Board. Notarization is not required.

B. A candidate may sign forms that the treasurer or deputy treasurer of the committee is required to file.

### 9 MCAR § 1.0012 Change of office sought by candidate.

A. Contribution and expenditure limits. When a candidate, who sought nomination or election to one office, subsequently seeks the nomination or election to another office in the same election year, expenditures incurred and contributions received to influence the nomination or election to the first office will not be counted toward the campaign contribution and expenditure limits to the subsequent office sought.

B. Registration requirement. A candidate who seeks another office must designate a separate principal campaign committee and a separate account for funds for the office sought.

C. Tax credit subsidy and public financing agreements. A candidate may sign a tax subsidy agreement for the calendar year for each office sought until December 31. A candidate may sign a public financing agreement for each office sought until September 1 of the general election year. Signing a public financing agreement by September 1 automatically rescinds a previously filed agreement for another office.

### 9 MCAR § 1.0013 Complaints of violations.

A. Any person who believes a violation of the act or of these rules has occurred may submit an oral or written complaint to the Board.

B. There is no prescribed form for a written complaint, but all such complaints shall be typewritten or handwritten legibly. The name and address of the person making the complaint shall be typewritten or hand printed on the complaint and it shall be signed by such person. A complaint

shall name the alleged violator and describe the complainant's knowledge of the alleged violation. Any evidentiary material should be submitted with the complaint. Complaints will not be available for public inspection or copying until after the Board makes a finding. No investigation shall be required if a complaint is frivolous on its face, illegible, too indefinite, does not identify the violator or is unsigned by the complainant.

C. The Board need not investigate an oral complaint. No investigation shall be undertaken if an oral complaint is frivolous on its face, too indefinite, does not identify the violation, or does not identify the complainant. There is no prescribed format for an oral complaint, but all oral complaints must describe in sufficient detail the alleged violator and violation of the act or rules.

D. Any portion of a meeting during which the Board is hearing testimony or taking action concerning any complaint, investigation, preparation of a conciliation agreement, or a conciliation meeting shall be closed to the public. The minutes of such a meeting shall be kept confidential.

### 9 MCAR § 1.0014 Contributions between principal campaign committees of the same candidate.

A. Exclusive of personal funds of a candidate as reported on the periodic reports, the candidate may permit his principal campaign committee to accept contributions up to the applicable contribution limit for a political committee from another principal campaign committee formed by that candidate in seeking another office to further his nomination or election to the other office.

B. If the other principal campaign committee is a federally registered committee, then the provisions of Minn. Stat. § 10A.22, subd. 7 apply as well as the contribution limit of the receiving committee.

9 MCAR § 1.0015 Contribution disclosure-judgeship. A judicial candidate subject to the Act shall be considered a statewide candidate for purposes of the contribution disclosure requirements set forth in Minn. Stat. § 10A.20, subd. 3(b).

9 MCAR § 1.0016 Contributions from non-Minnesota domiciled and domiciled, federally registered political committees or political funds. Non-Minnesota domiciled and domiciled, federally registered political committees or political funds which contribute in excess of \$100 in a calendar year to a political committee or political fund may, in lieu of registration with the Board, provide the recipient

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political committee or political fund with a report of receipts and expenditures containing all information required by Minn. Stat. 10A.20 for the reporting period in which the contribution was made.

**9 MCAR § 1.0017 Contribution limits – political party definition.** For purposes of determining an aggregate political party contribution limit, the organization of a political party does not include a political party ward organization, a social club of a political party in a congressional district, legislative district, municipality or precinct, an auxiliary committee of a political party unit defined by Minn. Stat. § 10A.27, subd. 4, or any association which uses a political party name and is not listed in Minn. Stat. § 10A.27, subd. 4.

**9 MCAR § 1.0018 Employee voluntary contribution plan.** If an individual employee of a corporation doing business in Minnesota makes a voluntary contribution to a state candidate through a plan made available by that corporation and the employee retains sole and exclusive control of accumulated funds in the employee's name, the corporation providing such a plan on a non-partisan basis is not required to register and report as a political committee or political fund. A political committee or political fund in receipt of the contribution from the individual shall report on the periodic report as required by Minn. Stat. ch. 10A.

**9 MCAR § 1.0019 Expenses incurred to repay loans.** The expenses of raising money to repay outstanding loans from a previous calendar year are reportable as campaign expenditures in the year in which expenses are incurred.

**9 MCAR § 1.0020 Forgiveness and payment of a loan.** When a loan to a principal campaign committee is forgiven or repaid by an individual, political committee, or political fund, in accordance with Minn. Stat. § 10A.32, subd. 3(b), a candidate who accepts money from the State Election Campaign Fund and whose aggregate contribution limit is exceeded, shall return to the Board with the required periodic report amendment or periodic report, a check or money order, payable to the State Treasurer for the amount in excess of the aggregate contribution limit but not to exceed the amount received from the State Election Campaign Fund.

**9 MCAR § 1.0021 Forgiveness and payment of unpaid bills.** When a donation in kind in excess of \$20 results from the forgiveness of an unpaid bill or payment of an unpaid bill by an individual, political committee or political fund other than the principal campaign committee causes the aggregate contribution limit of a candidate who accepts money from the State Election Campaign Fund to be exceeded, in accordance with Minn. Stat. § 10A.32, subd. 3(b), a candidate shall return the amount due, but not to exceed the amount received from the State Election Campaign Fund, by a check or money order made out to the

State Treasurer with the required amendment or periodic report.

### **9 MCAR § 1.0022 Fundraising event.**

A. The expenses of a fundraising event held by the state or local committee of a political party for one or two candidates are a donation in kind and, except for food and beverage consumed at the fundraising event, shall be reported as a campaign expenditure by the candidate or candidates under the following conditions:

1. The fundraising event is expressly or implicitly approved by the candidate, his treasurer, or agent to be held "on behalf of" the candidate; and

2. The candidate or candidates are "clearly identified" in advertisements, tickets, or any advance publicity for the fundraising event; and

3. The candidate receives proceeds, if any, from the fundraising event. "Clearly identified" means that: (a) the name of the candidate is used; or (b) a photograph or drawing of the candidate appears; or (c) the identity of the candidate is apparent by unambiguous reference.

B. A separate committee may be established by two or more candidates to report the contributions and expenditures as required by the act for a fundraising event held jointly. The expenses of the fundraising event shall be allocated among the candidates on a reasonable proportionate basis as donations in kind, and, except for food and beverage consumed at a fundraising event, as campaign expenditures. A transfer of funds to a candidate combined with the value of donations in kind from that committee, may not exceed the applicable contribution limit for an individual, political committee, or political fund set forth in Minn. Stat. § 10A.27, subd. 1.

**9 MCAR § 1.0023 Inactive registered committees and funds.** A registered committee or fund which receives no income and makes no expenditures or non-campaign disbursements during a reporting period may so indicate in the space provided on the periodic report and shall thereby satisfy the reporting requirement.

**9 MCAR § 1.0024 Joint checks.** When a contribution is given on a check written on a joint account, it shall be deemed a contribution by the signator(s) of the check unless otherwise specified by the signator(s). When a contribution is given on a check written on a joint account and specified as a joint contribution, it shall be deemed a separate contribution by each of the holders of the joint account in a proportional amount.

**9 MCAR § 1.0025 Joint limits for Governor and Lt. Governor.**

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A. A candidate seeking the endorsement for Lt. Governor who signs a tax credit subsidy agreement does not bind either the candidate for Governor or his/her candidacy to campaign expenditure limits following their joining of candidacies. Following their joint endorsement or filing for office, the candidates must jointly sign the public financing agreement and/or the tax subsidy agreement if they wish to participate in public financing.

B. Candidates for Governor and Lt. Governor may cause their separate principal campaign committees to be combined as one with no limit on the amount of funds transferred between the two committees. Such action may be taken regardless of whether the action results in either principal campaign committee terminated with outstanding unpaid bills or loans provided that the unpaid bills or loans are assumed and continuously reported until paid or forgiven by the remaining committee.

### 9 MCAR § 1.0026 Late filing fees.

A. The Board shall send a delinquency notice by certified mail to the treasurer of a political committee or political fund within ten business days after a filing date. A copy of the notice shall be sent by first class mail to the candidate and the chairman of a political committee or political fund. If a certified letter is returned by the post office to the Board as refused, then the letter shall be deemed to have been received by the addressee on the date refused. The late filing fee will then commence accumulating on the eighth day after refusal. A certified letter returned to the Board as undelivered shall be forwarded by first class mail to the treasurer. An undelivered notice of late filing shall be considered received by the recipient five business days after the first class mailing.

B. A late filing fee will be charged through the day preceding the day of filing of a late statement or late periodic report.

C. A late filing fee shall not be assessed for Saturday, Sunday or legal holidays.

D. The Board shall grant a waiver of a late filing fee if satisfied that the statement or report was not filed on time due to sickness, injury, or other compelling reason upon receipt of a written request for a waiver.

### 9 MCAR § 1.0027 Media advertisements — candidates.

A. If a candidate participates in, but does not pay for, a media advertisement paid for by a principal campaign

committee other than his own which advocates the nomination or election of other candidates or federal candidates, no portion of the cost of the advertisement shall be considered an approved expenditure on behalf of the participating candidate provided his candidacy is not mentioned and no direct or indirect appeal for support for his candidacy is made.

B. A candidate or treasurer of a political committee or fund may approve the solicitation and collection of campaign contributions through the use of credit cards. An organization which issues credit cards, when acting in the ordinary course of business by collecting and disbursing funds designated by the card holders for contributions to a political committee or political fund, is not required to register or report.

**9 MCAR § 1.0028 Mileage expense.** A candidate who is reimbursed for gasoline expenses by his principal campaign committee must report those as campaign expenses; however, a candidate who pays for gasoline expenses from personal funds is giving donations in kind which, if valued at \$20 or less, are neither reported nor recorded. The lowest rate that the State of Minnesota uses to reimburse its employees shall be used to determine the value of automobile use.

### 9 MCAR § 1.0029 Noncampaign disbursements — constituent services.

A. Expenses paid by the principal campaign committee of a candidate in a non-election year and before adjournment sine die of the legislature in an election year for the office held, for constituent services including newsletters, public opinion questionnaires, aides to legislators for constituent services during a legislative session, stationery not printed at government expense, postage, and rent for district offices shall be reported as a constituent service noncampaign disbursement. Only that portion of the expense actually used or consumed for services to constituents shall be reported as a noncampaign disbursement.

B. Costs of constituent services paid from personal funds of an officeholder incurred before adjournment sine die of the legislature in the election year for the office held are not required to be reported by the principal campaign committee of the officeholder.

C. Costs of providing constituent services by an officeholder who is a candidate after adjournment sine die of the legislature in the election year for the office held and sought are reportable by the principal campaign committee as campaign expenditures.

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D. Constituent services provided after adjournment sine die in the year of an election for an officeholder who is a candidate which are paid for from the personal funds of the officeholder shall be considered a donation in kind and reported as such by the principal campaign committee of the candidate.

E. Expenses incurred for providing constituent services in an election year after the general election are noncampaign disbursements.

F. A print media column or legislative report to constituents which is authored by an officeholder shall be considered an effort by the officeholder to influence his nomination or election if prepared and inserted in a newspaper or recurring periodical after adjournment of the legislature sine die in an election year when the officeholder's name will appear on the ballot. A letter, authored by an officeholder or candidate, appearing in a section of a newspaper or recurring periodical, designated for letters to the editor shall not be considered a campaign expenditure.

**9 MCAR § 1.0030 Noncampaign disbursements — miscellaneous.** Other expenses which are to be reported as miscellaneous noncampaign disbursements if paid for by the principal campaign committee of the candidate include, but are not limited to: costs for child care for the candidate's children when campaigning, fees paid to attend a campaign school, costs of a post election party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first, interest on loans paid by a principal campaign committee on outstanding loans, and filing fees, if permitted by other Minnesota law, post general election thank you notes or advertisements in the news media.

**9 MCAR § 1.0031 Organization of political committees and political funds.**

A. Any group of two or more persons which receives contributions or which makes expenditures, transfers of funds, or independent expenditures in aggregate in excess of \$100 to influence the nomination or election of one or more candidates for statewide or legislative office must register as a political committee or political fund. If the group's major purpose is to influence the nomination or election of one or more candidates, it shall register as a political committee. If the group is an association whose major purpose is one other than to influence nominations or elections, it shall establish a political fund. When a person or group merely solicits contributions with the approval of a candidate or the treasurer, deputy treasurer or agent of a political committee or political fund and when those contributions are made directly to the reporting committee or fund, that person or group need not establish a separate political committee or political fund.

B. A candidate may be his own chairman and/or treasurer.

C. All monetary assets of a committee or fund shall be kept in designated depositories in accounts named in accordance with Minn. Stat. § 10A.15, subd. 3.

D. The funds of a political committee or the contents of a political fund shall not be commingled with any other funds or with the personal funds of a candidate, any officer or member of the committee or fund.

E. If a political committee or fund purchases a certificate of deposit from a financial institution other than that which has been previously disclosed as a depository, the treasurer must amend the Statement of Organization by adding the name of the new depository.

**9 MCAR § 1.0032 Payment of compensation for personal services.** The gross value of compensation, in excess of \$20, for personal services of an individual or group which are rendered to a candidate, political committee or political fund is reported as a donation in kind from the individual or association that makes the payment.

**9 MCAR § 1.0033 Public financing.** A candidate or officeholder who signs an agreement to participate in the State Election Campaign Fund is bound by the expenditure limits in an election year and non-election year whether or not the candidate actually receives funds from the State Election Campaign Fund. To be effective a public finance agreement must be received in the office of the Ethical Practices Board or postmarked no later than September 1.

**9 MCAR § 1.0034 Recording contributions.**

A. Every individual, political committee or fund that receives a contribution in excess of \$20 shall record the name, address, and any other information required by statute.

B. Promptly after receipt of any contribution or on demand of the treasurer, the contribution together with any required record shall be transmitted to the treasurer.

**9 MCAR § 1.0035 Reporting and disclosing earmarked contributions.**

A. Each individual, political committee or political fund which receives an earmarked contribution of more than \$20 shall record (1) the name, address, and any other information required by statute; (2) the name and address of the candidate, political committee or political fund for whom the contribution is earmarked; (3) the political committee or political fund through which the earmarked contribution is directed; and (4) the amount of each earmarked contribution.

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B. An earmarked contribution is reported in periodic reports as miscellaneous income by the political committee or political fund through which the contribution is directed to a candidate. When transferred to the candidate by the political committee or political fund the information in 9 MCAR § 1.0035 A. shall accompany the transfer, although the earmarked contribution shall be disclosed on periodic reports by the political committee or political fund only when in excess of \$100.

C. The treasurer of a principal campaign committee of a candidate shall disclose on periodic reports the name, address, and any other information required by statute, the individual, political committee or political fund through which the contribution was directed, and the fact that the contribution was earmarked when the total aggregate contributions from the same source in a calendar year reach the disclosure thresholds of Minn. Stat. § 10A.20, subd. 3(b).

### **9 MCAR § 1.0036 Reporting unpaid bills outstanding as campaign expenditures.**

A. For the purpose of determining the total amount of campaign expenditures in a calendar year, any unpaid bills, for campaign expenditures used or consumed during the calendar year, owed by the reporting principal campaign committee on December 31 shall be considered campaign expenditures.

B. An unpaid bill is reportable as a noncampaign disbursement when paid in a succeeding year except as provided in 9 MCAR § 1.0021.

### **9 MCAR § 1.0037 Responsibilities of treasurers.**

A. A treasurer may transfer records and receipts to a new treasurer relieving that treasurer of record retention responsibility by written notification to the Board by either the new treasurer or the candidate. Such notice shall include name and address of the new treasurer and the effective date of the transfer.

B. A copy of a cancelled check with an invoice stating the purpose of the expenditure will be treated as a receipted bill.

**9 MCAR § 1.0038 Sample ballot prepared by a candidate.** If a candidate chooses to prepare and distribute his own sample ballot and includes the names of other candidates the ballot must contain the proper disclaimer required for independent expenditures as defined in Minn. Stat. § 10A.17, subd. 4, unless it is an approved expenditure as

defined in Minn. Stat. § 10A.01, subd. 10a. For purposes of campaign expenditure reporting, the total cost of the preparation, printing and distribution of the sample ballot shall be assessed against the candidate causing the ballot to be prepared and distributed.

**9 MCAR § 1.0039 Severability.** If any rule or any part thereof is held invalid, such invalidity shall not effect any other provision of the rule or rules which can be given effect without the invalid provision. To this end, the provisions of these rules are declared to be severable.

**9 MCAR § 1.0040 Signing tax credit subsidy agreement.** A candidate may sign a tax credit subsidy agreement at any time after registration of his principal campaign committee for the office sought or held through December 31. An agreement signed on or after January 1, shall not be applicable to a preceding calendar year.

**9 MCAR § 1.0041 Tax credit subsidy agreement and public financing agreement.** A candidate must sign a separate agreement in order to participate in each public financing program.

**9 MCAR § 1.0042 Tax credit subsidy receipts — special elections.** Candidates shall not issue Official Tax Credit Receipts for special elections.

### **9 MCAR § 1.0043 Termination of registration.**

A. A Terminated Report shall cover the period from the closing date of the last previous report filed through the date of termination.

B. Any terminated political committee or political fund which subsequently becomes subject to the registration and reporting requirements of the act is required to reregister.

**KEY: RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

## **Department of Natural Resources**

### **Proposed Amendment to the Management Plan for the Mississippi Wild & Scenic River Regarding the Monticello Orderly Annexation Area in Wright County**

#### **Notice of Hearing**

Notice is hereby given that a public hearing will be held on the above entitled matter, in the manner provided by the rulemaking provisions of Minn. Stat. ch. 15, at the Wright County Courthouse, Meeting Room A, in Buffalo, Minnesota, on June 22, 1979 at 7:00 p.m.

The hearing shall continue until all representatives of associations and other interested or affected persons or groups have had an opportunity to be heard concerning the above-mentioned matter by submitting oral or written data, statements or arguments.

The hearing examiner will be Howard Kaibel from the State Department of Administration, Office of Hearing Examiners, Room 300, 1745 University Ave., St. Paul, Minnesota 55104, (612) 296-6910.

Twenty-five days prior to the hearing a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed amendment. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

After public hearing, written material may be submitted and recorded in the hearing record for five working days, or for a longer period not to exceed 20 calendar days if so ordered by the hearing examiner.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request

notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

The proposed amendment will change the state's minimum zoning standards for that part of Monticello's orderly annexation area which is within the Recreational River Land Use District, from those which apply to rural areas under 6 MCAR § 1.0079, to those which apply to city shorelands classified Recreational Development under 6 MCAR §§ 1.0082-1.0084. The amendment is proposed in favorable response to petition filed with the agency pursuant to Minn. Stat. § 15.0415. The petition was filed by John Sandberg, Gregory V. Smith, and Gary L. Pringle, owners of a proposed subdivision in the affected area.

The proposed rule amendment has been prepared in accordance with Minn. Stat. §§ 15.0415 and 104.31-.40, the Statewide Rules and Regulations relating to Wild, Scenic and Recreational Rivers System (Minnesota Regulations NR 78-82), and the Mississippi River Management Plan (Minnesota Regulations NR 2400).

Copies of the proposed rule amendment are available for inspection at the public library in Buffalo and with the County. Interested individuals may receive a copy of the plan and the Statement of Need and Reasonableness by writing or calling the Department of Natural Resources, Division of Waters, Land Use Section, Box 32, 3rd floor Space Center, 444 Lafayette Road, St. Paul, MN 55101 (612-296-0445). Copies of the rule amendment will also be available at the public hearings.

Under Minn. Stat. § 10A.01, subd. 11 (1976), a lobbyist must register with the State Ethical Practices Board within five (5) days after he commences lobbying. According to the statute, "lobbyist" means any individual engaged for pay or other consideration or authorized by another individual or association to spend money who spends more than five hours of any month or more than \$250, not including travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or who spends more than \$250, not including travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. "Lobbyist" does not include any: (a) public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity; (b) party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action; (c) individual in the course of selling goods or services to be paid for by public

## PROPOSED RULES

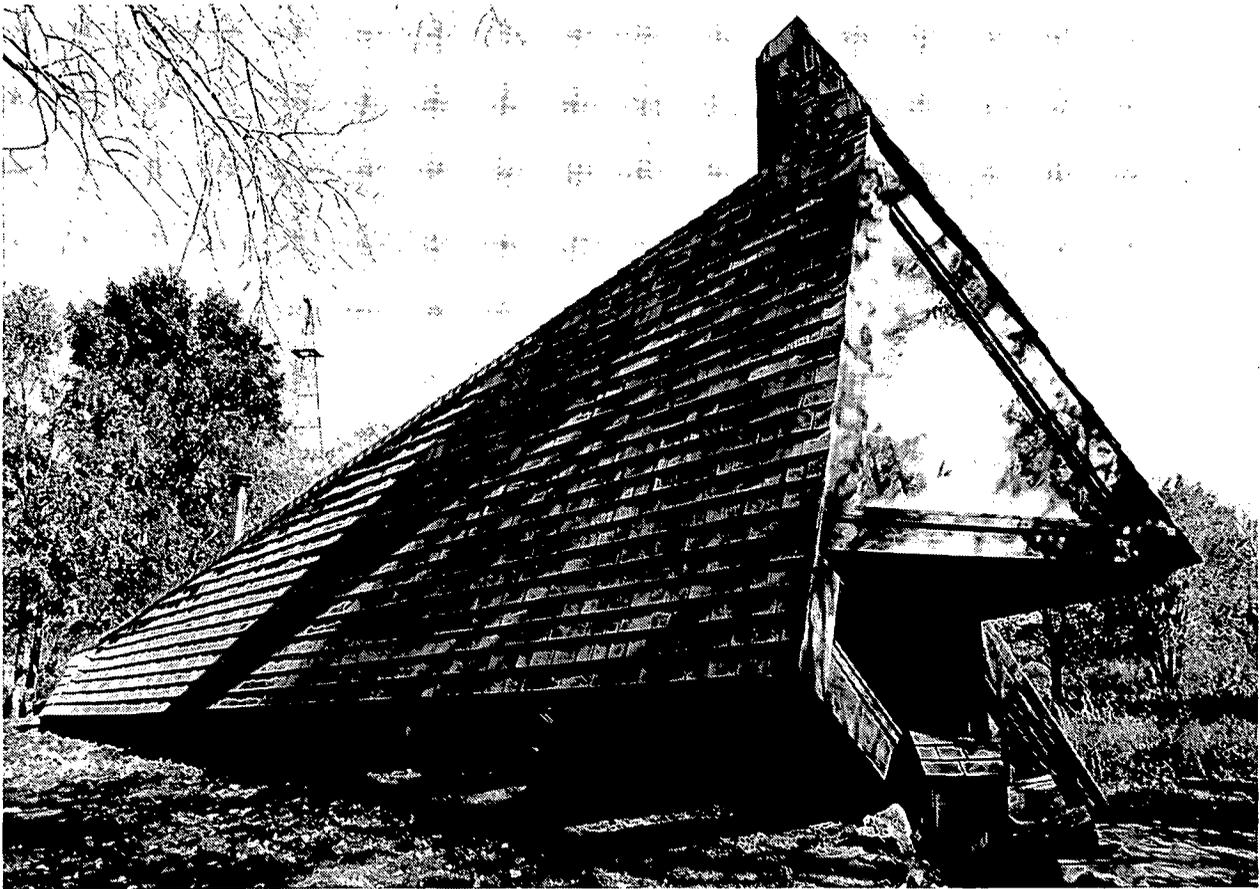
funds; (d) news media or their employees or agents acting in the ordinary course of business or publishing or broadcasting news items, editorials or other comments or paid advertisements which directly or indirectly urge official action; (e) paid expert witness whose testimony is requested either by the body before which he is appearing or one of the parties to a proceeding, but only to the extent of preparing or delivering testimony; or (f) stockholder of a family farm corporation as defined in § 500.24, subd. 1, who does not spend over \$250, excluding travel expenses, in any year in communicating with public officials.

Questions regarding lobbying should be directed to the State Ethical Practices Board, Room 41, State Office Build-

ing, Wabasha Street, St. Paul, Minnesota 55155; telephone (612) 296-1702.

### Amendment as Proposed

6 MCAR § 1.2420 C. 10. The portion of the land use district which is within the Orderly Annexation Area established by the Minnesota Municipal Board adjacent to the City of Monticello in 1975 shall be governed by the Recreational Development standards of 6 MCAR § 1.0078, 1.0078 G.-J., 1.0080 and 1.0081 (NR 82-84). The zoning authority shall also conform to the provisions of 6 MCAR § 1.0078, .0079 G.-J., :0080 and .0081 (NR 78, 79 (g)-(j), 80, and 81).



The internationally recognized Ouroboros South Project in Rosemount is one of the earliest full-scale, working, experimental dwellings combining energy-conserving architectural design with alternative technologies. Tours are offered to the public. For reservations or information, contact the center at 320 Wesbrook Hall, 77 Pleasant Street S.E., Minneapolis, MN 55455, (612) 373-5170. (Photograph courtesy of Ouroboros South Project)

**KEY: RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

# STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any

consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

## Minnesota Zoological Garden

### Notice of Request for Proposals for Media Services

The Minnesota Zoological Garden wishes to enter into a contract with an agency to provide advertising creative and media placement services. The services required include creative conceiving, copywriting, scripting, visualization, artwork, creative strategy, graphics and art direction, and media buying and measurement for the Minnesota Zoological Garden. Projects will include a billboard campaign, print and electronic advertising and promotional materials.

Applicants must be a full service agency; must be able to work on a project by project basis and must show sensitivity to the Minnesota Zoo's purpose, objectives and constraints.

The estimated amount of the contract is \$150,000.00 inclusive of both creative costs and media buy. The contract will run from July 1, 1979 through June 30, 1980.

Prospective respondents who have any questions regarding the request or who wish to submit a proposal may call or write Ladd Conrad, Associate Director, Visitor Services, Minnesota Zoological Garden, 12101 Johnny Cake Ridge Road, Apple Valley, MN 55124; (612) 432-9010.

All proposals must be received by the MZG no later than 4:30 p.m., Friday, May 11, 1979.

## Department of Public Safety

### Notice of Request for Proposals for Consultant Services

The State of Minnesota, Department of Public Safety is seeking proposals from firms/organizations that have experience in developing logical models of information systems, using graphical techniques which enable users, analysts, and designers to obtain a clear picture of the system and how its parts fit together to meet the user's needs.

The product of this effort will be a graphic model which defines departmental activities in a way that facilitates the design and implementation of information system components. The consultant will assist in the development of this logical model for a new state traffic records data base and information system.

The estimated amount of the contract is \$15,000. The contract will be let on or about June 1, 1979. Direct any inquiries and submit proposals to:

Nancy Abraham, Director  
Office of Planning and Analysis  
Room 314, Transportation Building  
St. Paul, Minnesota 55155  
(612) 296-2017

Responses will be accepted until 4:30 p.m., May 14, 1979.

## State Planning Agency Developmental Disabilities Planning Office

### Notice of Request for Proposals for Demonstration/Evaluation Phase of Case Management System

The Minnesota Governor's Planning Council on Developmental Disabilities announces that it is seeking proposals from eligible public or private/non-profit organizations with the interest and capacity to undertake the following task:

To implement a process that will provide a single point of access to basic human service programs needed by individuals having a developmental disability. Case Management includes having a written plan for the individuals needing services, follow along services that ensure that the changing needs of the DD person and/or family are recognized and appropriately met, coordination services which provide access to other services, information on programs and services and monitoring of the person's progress.

## STATE CONTRACTS

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The Request for Proposal guidelines to be used in the preparation of an application are available *upon written request* from the address listed below. Deadline for the receipt of applications is Thursday, May 31, 1979 (whether post-marked or hand-carried). To obtain a Request for Proposal packet, please write to:

Case Management RFP  
Developmental Disabilities Planning Office  
State Planning Agency — Room 200  
Capitol Square Building  
550 Cedar Street  
St. Paul, MN 55101

## OFFICIAL NOTICES

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Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject,

either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

### Department of Agriculture Dairy Industries Division

#### Notice of Intent to Solicit Outside Opinion Regarding Amendment of Rules Governing Grade A Milk & Grade A Milk Products Requirements, and the Certification Program for Milk Laboratories

Notice is hereby given that the Minnesota Department of Agriculture has begun consideration of amending rules governing grade A milk requirements and certified milk laboratories.

In order to adequately determine the nature and utility of such amendments, the Department of Agriculture hereby requests information and comments from all interested individuals or groups concerning the subject matter of the proposed amendments.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing.

Written statements of information and comment may be addressed to:

Orlowe Osten, Director  
Minnesota Department of Agriculture  
Dairy Industries Division  
530 State Office Building  
Saint Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the phone at (612) 296-3647, and in person at the above address.

All statements of information and comment must be received by 4:30 p.m., July 1, 1979. Any written material received by the department shall become part of the hearing record.

The proposed amendments, if adopted, would amend Department of Agriculture rules chapters 47 and 57 by adopting by reference the recently revised "Grade A Pasteurized Milk Ordinance," "Grade A Condensed and Dry Milk Products and Condensed and Dry Whey" Sanitation Ordinance and "Evaluation of Milk Laboratories" as recommended by the United States Public Health Service/Food and Drug Administration.

April 16, 1979

Mark W. Seetin  
Commissioner

**Department of Commerce  
Board of Architecture,  
Engineering, Land  
Surveying and Landscape  
Architecture**

**Notice of Special Meeting of Board**

A special meeting of the Board of Architecture, Engineering, Land Surveying, and Landscape Architecture will be held in the Department of Commerce Hearing Room, 500 Metro Square, St. Paul, Minnesota at 1:30 p.m., Thursday, April 26, 1979 pursuant to Section 326.07, Minnesota Statutes, for the purpose of resolving a technical error in proposed amendments to AE&LS Rule 10.

**Department of Commerce  
Banking Division**

**Bulletin No. 2080: Maximum Lawful  
Rate of Interest for Mortgages for  
the Month of May 1979**

Notice is hereby given that the Banking Division, Department of Commerce, State of Minnesota, pursuant to Section 47.20, subd. 4, Minnesota Statutes, the Conventional Home Loan Assistance and Protection Act, hereby determines that the maximum lawful rate of interest for home mortgages for the month of May, 1979, is ten and one-half (10.50) percent.

April 13, 1979

Michael J. Pint  
Commissioner of Banks

**Department of Commerce  
Insurance Division**

**Notice of Intent to Solicit Outside  
Information on Proposed Rules  
Governing Limits on the  
Reimbursement Required for  
Certain Benefits to be Added to  
Qualified Plans Pursuant to Minn.  
Stat. § 62E.06, Subd. 1 Effective  
July 1, 1980**

Notice is hereby given that the Department of Commerce, Insurance Division has begun consideration of proposed permanent rules governing prescribed limits on the reimbursement requirement by certain services in a qualified plan.

The proposed rules, if adopted, would prescribe limits on the reimbursement required for the following services:

- (a) Well baby care;
- (b) Physicians' services for routine check-ups and annual physicals when prescribed by a physician;
- (c) Multiphasic screening and other diagnostic testing.

All interested or affected persons and/or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Mr. John T. Ingrassia  
Supervisor, Life and Health Section  
Insurance Division  
Department of Commerce  
500 Metro Square Building  
St. Paul, Minnesota 55101.

Oral statements of information and comment will be received during regular business hours over the phone at (612) 296-2202 and in person at the above address.

Michael D. Markman  
Commissioner

## Board of Cosmetology

### Notice of Filing of Application for a Certificate of Approval by Brooks Beauty School

Please take notice that an application for a certificate of approval for a hairdressing and beauty culture school to be known as "Brooks Beauty School" and to be located at 262 University Avenue, St. Paul, Minnesota has been filed with the Minnesota State Board of Cosmetology by Mr. Arthur Brooks, 1882 Colvin Avenue, St. Paul, Minnesota 55116.

Any party wishing to object to this application may do so by writing to the Minnesota State Board of Cosmetology, 500 Metro Square Building, St. Paul, Minnesota 55101. The objection must be received within twenty (20) days after this notice has been fully published. If any objections are received within that time period, the Board will hold a contested case hearing to determine what action should be taken on the application.

## Metropolitan Council

### Public Hearing on Continued Designation of the Mississippi River Corridor as a Critical Area

The Metropolitan Council will hold a public hearing on Thursday, May 17, 1979 at 3 p.m. in the Metropolitan Council Chambers, 300 Metro Square Building, 7th and Robert Sts., St. Paul, Minnesota 55101 to receive comments concerning the proposed action by the Metropolitan Council to approve the continued designation of the Mississippi River Corridor as a Critical Area. Persons wishing to speak at the hearing may register in advance by contacting the Council's public hearing coordinator at 291-6482. Those registering first will be scheduled to speak first. Copies of a document concerning the proposed action are available free of charge from the Council's Public Information Office at the above address, telephone 291-6464.

Charles Weaver  
Chairman

## Office of the Secretary of State Administration Division

### Open Appointment Process: Notice of Openings on State Agencies — Application Procedures

Pursuant to Laws of 1978, ch. 592, the legislature has implemented an Open Appointment process by which the public is informed of openings on state multi-member agencies (boards, commissions, councils) created by statute and having statewide jurisdiction.

Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul, MN 55155, (612) 296-3266. Contact the Secretary of State for the Open Appointment Process information brochure and specific agency related information. **Application deadline is Friday, May 11, 1979.**

**Minnesota Corrections Board:** One opening. This Board is authorized to grant and revoke paroles and discharges to all convicted felons who are confined to the State Prison, the State Reformatory, and the Correctional Institution for Women. Members are expected to work 40 hours per week and participate in an average of 15 full days of hearings per month. In compliance with Minnesota statutes, the existing vacancy must be filled by a member of a racial minority and the vacant member position may not be a member of the DFL Party. Members receive \$24,500 per year. The term for this vacancy ends on January 1, 1980. The Governor is the Appointing Authority.

## Office of the Secretary of State

### Notice of Intent to Solicit Outside Information Regarding Proposed Rules Governing Training of Election Judges and Forms and Procedures for Absentee Voting and Amendments to Rules Governing Voter Registration, Preparation of the White Ballot and Certification and Experimental and General Use of Voting Machines

Notice is hereby given that the Secretary of State is seeking information or opinions from sources outside the agency in preparing to propose rules governing the training of election judges and forms and procedures for absentee voting, which are mandated by Minn. Stat. §§ 207.08, subd. 2, and 207.085 (1978) and amendments of the white ballot (1 MCAR §§ 2.2101-2.2115) and certification and experimental and general use of voting machines (1 MCAR §§ 2.3101-2.3907).

The Secretary of State will propose rules:

(a) establishing a program for the training of election judges by county auditors as required by Minn. Stat. § 204A.175 (1978);

(b) establishing the form, content, and type size and style for the printing of applications for absentee ballots, return envelopes, certificates of eligibility to vote by absentee ballot, ballot envelopes and directions for casting an absentee ballot;

(c) establishing the procedures to be used for each method of returning absentee ballots permitted by Minn. Stat. § 207.08 subd. 2(1978); and

(d) authorizing additional methods and procedures of return of absentee ballots.

The Secretary of State also will propose amendments to many of the existing rules governing voter registration, preparation of the white ballot and certification and experimental and general use of voting machines.

Any interested persons may submit data or views on these subjects orally or in writing to:

Secretary of State Joan Anderson Growe  
Elections Division  
180 State Office Building  
St. Paul, Minnesota 55155  
(612) 296-2805

Any written material received by the agency shall become a part of the hearing record when rules governing these subjects are promulgated.

Information or opinions should be submitted before August 1, 1979.

Please be advised that pursuant to Minn. Stat. §§ 10A.01, subd. 11, and 10A.03, subd. 1 (1978), certain individuals who spend time or money attempting to influence administrative action, such as adoption of or amendments to rules, must register with the Minnesota Ethical Practices Board as a lobbyist within five days of commencement of such activity.

April 16, 1979

Joan Anderson Growe  
Secretary of State

## Errata

1. At 3 S.R. 1905, Rule 10 MCAR § 1.300 B., 4th line: "LCMR Grants-in-aid" should not be struck out.
2. At 3 S.R. 1906, Rule 10 MCAR § 1.301 A.2., 2nd line: "HCRA" should be underlined.
3. At 3 S.R. 1906, Rule 10 MCAR § 1.301 B., 1st line: "HCRS" should be underlined.

# SUPREME COURT

**Decisions Filed Friday,  
April 13, 1979**

**Compiled by John McCarthy, Clerk**

**48362/28 Julie Bess Oltmans, a minor, by John William Oltmans, her father and natural guardian, et al, Appellants, vs. Orthopaedic and Fracture Clinic, P.A., etc., et al. Blue Earth County.**

In a medical malpractice action alleging negligent failure to diagnose and treat an infection resulting from surgical repair of a lacerated knee of an 8-year-old child, the trial court ruling with respect to the admission and striking of evidence did not result in prejudice to plaintiffs, and the evidence justified the submission of the issue of superseding cause to the jury.

Affirmed. Rogosheske, J. Took no part, Otis, J.

**48987/65 John J. Malevich, et al, Appellants, vs. Eugene Hakola, et al, Fred Barrett, Richard Moyer, et al. St. Louis County.**

When an option contract, relied upon as a memorandum of a contract for the sale of land, entirely omits a description of the real estate, such description cannot be supplied by parol and the contract is unenforceable under the statute of frauds, Minn. St. § 513.05.

Since the existence of a written or oral contract to convey land is an essential element of a cause of action for tortious interference with a contractual relationship, where the writing leaves essential terms of the agreement to future negotiation, and no meeting of the minds as to such terms had been reached during subsequent negotiations, and where it is undisputed that the vendors intended to remain unbound until a formal contract was executed, summary judgment of dismissal of such cause of action is appropriate.

Affirmed. Rogosheske, J.

**49179/89 Alfredo Rosillo, petitioner, Appellant, vs. State of Minnesota. Jackson County.**

Defendant's contention that the evidence of his guilt was legally insufficient is without merit.

Where an affidavit in support of a search warrant application contained facts justifying the conclusion that defendant had participated in a burglary and that he still had some of the money in his possession, probable cause existed for a search.

Although a trial court should instruct the jury as to the elements of a criminal offense, the defendant was not prejudiced by the court's failure to so instruct where the trial court reread the definition of the criminal offense instruction twice and the jury foreperson indicated satisfaction.

Where stolen property was found in a room that defendant shared with a number of his siblings, the trial court did not err in refusing to instruct the jury that a conviction for burglary could not be based solely on non-exclusive possession of the stolen property where other evidence also implicated defendant.

Affirmed. Rogosheske, J.

**49395/152 State of Minnesota vs. Tommy Hawkins, Appellant. Ramsey County.**

The affidavit in support of an application for a search warrant contained information indicating that narcotics officers had made observations sufficient to demonstrate the existence of probable cause to believe that narcotics would be found in a search of defendant's residence.

Affirmed. Rogosheske, J.

**48711 Bernadette G. Schumann vs. Independent School District #888, et al, Relators, and Blue Cross and Blue Shield of Minnesota, intervenor, and Thomas Stemig, Employee, vs. George Benz & Sons, Inc., d.b.a. Oak Grove Dairy, et al, Relators, and Blue Cross and Blue Shield of Minnesota, intervenor. Workers' Compensation Court of Appeals.**

The Workers' Compensation Court of Appeals properly vacated a previous dismissal relating to intervention of medical insurers, and the proceedings are governed by new Rule 18, Workers' Compensation Rules of Practice, effective March 1, 1978.

Affirmed. Todd, J.

**47976/404 In the Matter of the Appeal of Lavern L. Ewert and Elaine L. Ewert, His Wife, and Einar R. Olson and Irene F. Olson, His Wife from the Assessments Adopted on September 11, 1975, by the City Council of the City of Winthrop, for Improvements of Certain Lands. Sibley County.**

In this case the increase in market value of appellant's lots resulting from a city improvement appears from all the evidence to be less than the assessment levied upon those lots.

## SUPREME COURT

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The district court, in conducting hearings on an appeal from an assessment where the landowner maintains that the amount of the assessment exceeds the value of the improvements and that the assessment is confiscatory, has a special responsibility to examine the evidence very carefully and should try the matter de novo in order to determine whether the assessment exceeds special benefits.

The landowner, on an appeal to district court from a city assessment, is not entitled to a jury trial unless specifically granted by statute. Absent such a statute in this case, the matter is triable by a court.

Reversed and remanded. Yetka, J.

**48954/100**    **Randall LaMere, petitioner, Appellant,**  
**vs. State of Minnesota. Hennepin County.**

Testimony by an arresting officer that he advised petitioner of his rights, while error, was not prejudicial.

Unintentional elicitation of evidence that petitioner was a pimp was not prejudicial error.

Contention that evidence of petitioner's guilt was legally insufficient is meritless.

While a temporarily inoperable firearm is still a "firearm" and therefore a "dangerous weapon" under Minn. St. § 609.02, subd. 6, it would have been preferable for the trial court to submit the issue of whether the gun in question was a "dangerous weapon" rather than instruct the jury that as a matter of law it was a "dangerous weapon."

Trial court did not err in denying request to submit lesser offenses.

Contention that instructions on self-defense were inaccurate is meritless.

Affirmed. Wahl, J.

STATE OF MINNESOTA  
OFFICE OF THE STATE REGISTER

Suite 415, Hamm Building  
408 St. Peter Street  
St. Paul, Minnesota 55102  
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## ORDER FORM

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Legislative Reference Library  
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